

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

IPXPHARMA, LLC,

Plaintiff,

v.

MILLENNIUM  
PHARMACEUTICALS, INC.,

Defendant.

Case No. 3:14-cv-01545

JURY DEMANDED

**PLAINTIFF'S MOTION FOR LEAVE TO FILE A MEMORANDUM IN  
SUR-REPLY TO DEFENDANT'S MOTION TO DISMISS**

Plaintiff, IPXpharma LLC, respectfully moves this Court pursuant to Local Rule 7.01(b) for permission to file a memorandum in sur-reply to the Motion to Dismiss filed on September 3, 2014 by Millennium Pharmaceuticals, Inc.

IPXpharma submits that it has good cause for leave to file a Memorandum in Sur-Reply to respond to Millennium's argument that IPXpharma lacks standing to sue for past damages. (The proposed Memorandum is attached hereto as Ex. A.) Millennium's argument was raised for the first time in its Reply Memorandum. [Docket Entry 43]. IPXpharma would like to present additional evidence that will clarify its standing to sue for past infringement. Therefore, IPXpharma respectfully requests that the Court permit it to file its Memorandum in Sur-Reply.

DATED: October 1, 2014

Respectfully submitted,

s/ Clarence J. Gideon Jr.

Clarence J. Gideon, Jr.

GIDEON, COOPER & ESSARY PLC

315 Deaderick Street, Suite 1100

Nashville, Tennessee 37238

*cj@gideoncooper.com*

Michael A. Florie (admitted *pro hac vice*)

Jay M. Ezelle (admitted *pro hac vice*)

Cole R. Gresham (admitted *pro hac vice*)

STARNES DAVIS FLORIE LLP

100 Brookwood Place, 7<sup>th</sup> Floor

P. O. Box 598512

Birmingham, AL 35259-8512

*jme@starneslaw.com*

*crg@starneslaw.com*

**Attorneys for Plaintiff**

**IPXpharma, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 1<sup>st</sup> day of October, 2014, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing, to the following attorneys of record:

Jessalyn H. Zeigler  
BASS BERRY & SIMS, PLC  
150 Third Avenue South, Suite 2800  
Nashville, Tennessee 37201  
(615) 742-6200  
JZeigler@bassberry.com

William F. Lee  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
60 State Street  
Boston, Massachusetts  
(617) 526-6000  
william.lee@wilmerhale.com

Robert M. Galvin  
Leizel A. Ching  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
950 Page Mill Road  
Palo Alto, California 94304  
(650) 858-6000  
robert.galvin@wilmerhale.com  
leizel.ching@wilmerhale.com

s/ Clarence J. Gideon, Jr.